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FISCAL IMPACT STATEMENT

LS 6773

BILL NUMBER: HB 1607

NOTE PREPARED: Apr 15, 2009

BILL AMENDED: Apr 14, 2009

SUBJECT: Regional Transportation Districts.

FIRST AUTHOR: Rep. Dobis

FIRST SPONSOR: Sen. Kenley

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill does the following.

Northern Indiana Regional Transportation District: The bill provides for a referendum in 2010 in Lake, Porter, LaPorte, and St. Joseph Counties for the creation of a regional transportation district in northern Indiana (NIRTD). It provides for the creation of the NIRTD January 1, 2011, if, in at least two counties, the voters favor creating the NIRTD. The bill also provides that those counties where the voters favor creating the NIRTD become member counties. It provides for a NIRTD board with an appointment by each member county and one by the Governor who serves as chairperson but who may vote only to break a tie vote. It requires a NIRTD board member to be a resident of the county appointing the member or to be a resident of the NIRTD in the case of the Governor appointment.

Service Divisions: It specifies that the Northern Indiana Commuter Transportation District (NICTD) serves as the Rail Service Board and Division (RSB and RSD), and it requires a NICTD board member to be a resident of the county appointing the member or to be a resident of the NIRTD in the case of Governor appointments.

The bill also creates a Bus Service Board and Division (BSB and BSD) for the NIRTD. It requires a BSB member to be a resident of the county appointing the member or to be a resident of the NIRTD in the case of Governor appointments.

Transfer of Authority: The bill transfers authority to fund and operate a public transportation system from certain political subdivisions to the BSD.

Bond Authority: The bill permits the Board to contract with the Indiana Finance Authority for issuing debt. It adds the NIRTD to the list for which the Indiana Finance Authority may issue bonds and to the list of entities that are covered by the claims payment law for various authorities.

Transportation Improvement Tax: The bill permits the District Board to impose a Regional Public Transportation Improvement Tax on the income of individuals residing in a member county. It requires the District Board to establish a five-year improvement plan with a capital improvement component and an operating component and an allocation of these components to each member county.

It provides that the maximum improvement tax rate in any member county is 0.25%, and it requires the improvement tax rate for capital to be determined based on the capital improvement needs of the district as determined by the District Board. It requires the improvement tax rate for operating to be determined based on the number of passengers and passenger miles. It also requires the improvement tax rate for each member county to be determined by the State Budget Agency using the five-year improvement plan. It also makes an appropriation to the district for distribution of the improvement tax revenue.

The bill requires Lake, Porter, LaPorte, and St. Joseph counties to adopt the local income tax rate for property tax levy reduction, property tax replacement, and public safety before the transportation improvement tax may be imposed by the board of the NRTD.

Public Transportation Corporation Provisions: The bill allows a public transportation corporation outside Marion County to provide service outside a municipality's corporate boundaries without charging rates that are sufficient to cover the expanded service.

Repeal: The bill repeals the requirement that the public transportation corporation hold a public hearing concerning proposed expanded service and the information related to the hearing. It also repeals the provision concerning the treatment of bids to provide the expanded service by an authorized motor carrier.

Northern Indiana Regional Development Authority: This bill requires the development board of the Northwest Indiana Regional Development Authority (NIRDA) to separately account for money received or designated for construction, reconstruction, renovation, purchase, lease, acquisition, and equipping in a lease account separate from its general account.

Effective Date: (Amended) Upon passage; July 1, 2009; July 1, 2010; January 1, 2011.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to implement collection of the regional transportation improvement income tax. It is estimated that the DOR's current level of resources should be sufficient to implement these requirements.

State Budget Agency: The State Budget Agency (SBA) is to provide assistance to the NRTD board in computing the appropriate tax rates for each member county if a regional transportation improvement income tax is imposed. These additional responsibilities are expected to be within the SBA's current level of resources.

Explanation of State Revenues: *Taxation:* Property, revenue, and bonds of the NRTD, the Rail Service Division (RSD), and the Bus Service Division (BSD) are exempt from state taxation, except for the financial institutions tax or the state inheritance tax.

Explanation of Local Expenditures: (Revised) The bill will have indeterminate fiscal impact depending on the actions of voters in Lake, LaPorte, Porter, and St. Joseph Counties; and, if established, of NRTD, the

RSD, and the BSD; their method of funding; and the projects, contracts, mergers or leases undertaken.

Background -

Governance: The NRTD, RSD, and BSD are each a body corporate and politic, separate from the state and other political subdivisions. Their powers to govern are vested in their separate boards. A board member does not receive compensation, but may be entitled to a per diem for board meetings. Each board must meet at least quarterly.

The NRTD board has nine members including one member from the fiscal body of and one member from the county executive of each member county; and one member appointed by the Governor who is an elected official in one of the member counties.

The board of the Northern Indiana Commuter Transportation District (NICTD) board is the board of the RSD.

The BSD board is comprised of 11 members including one member from the fiscal body of and one member of the county executive of each participating county; and one member representing the rest of the state, one passenger member, and one employee member each appointed by the Governor. Members of the BSD board must reside in the county appointing the member.

NRTD: The NRTD is given 24 general powers, including matters of internal organization and operating procedures and the employment of staff. The NRTD is to determine the level and kind of transportation services to be provided within the district. The NRTD may issue bonds through contract with the Indiana Finance Authority (IFA); acquire real, personal, or mixed property; receive gifts, donations, bequests, and public trusts, and federal or state aid; comply with federal statutes and rules concerning expenditure of federal money; use money not otherwise pledged for a local match of federal funds; and set and collect charges and rents. Bonds must have a 25-year maturity, and the IFA may secure bonds issued by a trust indenture between the NRTD and a corporate trustee, which may be any trust company or national or state bank in Indiana. The NRTD may make loans and grants to and purchase securities of the service divisions.

The board is to adopt a budget for the NRTD and may establish funds and accounts, as necessary. The NRTD is to report to the Legislative Council, the Budget Committee, and the Governor concerning the operations and activities of the district during the calendar year by April 1 of each year. The NRTD is to develop, continuously update, and implement a long-range comprehensive strategic plan that ensures the orderly development and maintenance of an efficient system of public transportation within the district. The plan must include a 10-year prospective of the expected financial condition of public transportation in the district territory and an annual capital improvement plan. The NRTD is to submit the plan for review by the Budget Committee by January 1 of the second year following the year that the district is established.

The board may establish advisory committees.

Under procedures already in statute, the district may procure a condemnation of property if it has adopted a resolution that describes the property, declares the public interest and necessity for the acquisition of the property, and sets out any other facts considered necessary or pertinent.

The NRTD may enter into agreements with any local government, individual, corporation, or other person or public agency in or of any state. Also, the NRTD board may intervene in disputes between service boards or between a service board and any transportation agency providing services to the service board

concerning allocation of revenues or transportation services, and between the two service boards with respect to coordination of services, route duplication, or changes in service. The NIRTD has the authority to make, execute, and enforce contracts and other instruments (including public-private agreements) necessary to purchase, acquire, or sell securities or other investments related to a project or the performance of the NIRTD duties and powers.

RSD: The NICTD is the commuter RSD of the NIRTD, and retains its current duties and authority.

BSD: On January 1, 2011, the BSD is to receive the rights, powers, duties, personnel, liabilities, and obligations of an automated transit district, a regional transportation authority, a regional bus authority, or a public transportation corporation that is operating in the incorporated or unincorporated areas of member counties, as well as of a municipality, to provide and fund public transportation systems.

The BSD operates in the manner of a regional transportation authority under IC 36-9-3, which includes suing and being sued and incurring indebtedness in its own name.

Transportation Facilities: The NIRTD or a service division may operate public transportation facilities and enter into operating agreements for the facilities.

Leases: The bill contains full and complete authority for leases between the NIRTD and a service division, and it allows the NIRTD and a service division to enter into common wall agreements concerning easements or licenses.

Explanation of Local Revenues: (Revised) *Regional Transportation Improvement Tax:* If all 4 of the member counties have imposed the existing LOITs (1) to freeze maximum levies, (2) to provide direct taxpayer credits, and (3) for public safety, then the NIRTD board may impose a Regional Transportation Improvement Income Tax on the adjusted gross income of individuals who are residents of one of the member counties. (Note: The member counties are Lake, LaPorte, Porter, and St. Joseph.) To date, none of the four member counties has imposed any of the three existing LOITs.

The NIRTD board would determine the improvement tax rate for each county up to a maximum rate of 0.25%. The improvement tax must be used for capital improvement and operating costs of the NIRTD, and each county's rate must be sufficient to pay the operating cost and capital cost allocated to that county by the NIRTD board. The bill provides that operating costs paid by the improvement tax must be allocated among the member counties based on the total passengers and total miles traveled by individuals using public transportation within each county. Capital costs paid by the improvement tax are to be allocated among the member counties based on the benefits received from the capital cost by each county.

The NIRTD board may adopt a resolution to adjust the improvement tax rate of a county if it is insufficient to pay the operating and capital cost allocated to that county. The improvement tax is in effect from October 1st to September 30th. To impose, increase or decrease, or rescind the improvement tax effective October 1st, the NIRTD board must adopt a resolution to do so between March 31st and August 1st of the same year. The estimated yield from a 0.25% improvement tax in each member county is summarized in the table below. These estimates indicate the potential yield from the tax on member county residents.

County	CY 2012	CY 2013
Lake	\$23.0 M	\$23.7 M
LaPorte	\$5.3 M	\$5.4 M
Porter	\$13.2 M	\$13.8 M
St. Joseph	\$16.0 M	\$16.8 M
Total	\$57.5 M	\$59.7 M

Property Tax: The BSD may impose a property tax to the extent that the property was pledged before January 1, 2011, to pay for bonds, loans, other obligations, or lease rentals. The power to impose a property tax to fund public transportation systems by an agency that transfers its powers to the BSD terminates on July 1, 2011. Any delinquent property tax collections transfer to the BSD.

In 2008, Gary Public Transportation levied \$2.7 M for its general fund and \$1.4 M for debt. Also in 2008, South Bend Public Transportation levied \$3.7 M for its general fund and nothing for debt. Beginning in 2011 under this provision, the total general fund levies of \$6.4 M for these two entities would cease. Gary Public Transportation's debt levy would continue until the debt is repaid. The elimination of the transportation general fund property tax levies in Gary and South Bend would cause a reduction in circuit breaker losses for taxing units in Lake and St. Joseph Counties in an amount that is less than the \$6.4 M levy.

State Agencies Affected: SBA; DOR; State Budget Committee, IFA.

Local Agencies Affected: Lake, LaPorte, Porter, and St. Joseph Counties.

Information Sources: LSA LOIT Tax Revenue Estimates: CY 2009-CY 2013.

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